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PTO/SB/05 (03-01)

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**UTILITY
PATENT APPLICATION
TRANSMITTAL**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	4821-523	Total Pages	24
First Named Inventor or Application Identifier			
Paul D. RUBIN et al.			
Express Mail Label No.			



APPLICATION ELEMENTS

See MPEP chapters 600 concerning utility patent application contents.

Commissioner for Patents
P.O. Box 1450
Mail Stop PATENT APPLICATION
Alexandria, VA 22313-1450

<p>1. <input checked="" type="checkbox"/> Fee Transmittal Form (Submit an original, and a duplicate for fee processing)</p> <p>2. <input type="checkbox"/> Applicant claims Small Entity status, see 37 C.F.R. § 1.27</p> <p>3. <input checked="" type="checkbox"/> Specification [Total Pages 22] (preferred arrangement set forth below, MPEP 1503.01) - Descriptive title of the Invention - Cross Reference to Related Applications - Statement Regarding Fed sponsored R&D - Reference to Microfiche Appendix - Background of the Invention - Brief Summary of the Invention - Brief Description of the Drawings (if filed) - Detailed Description of the Invention (including drawings, if filed) - Claim(s) - Abstract of the Disclosure</p> <p>4. <input type="checkbox"/> Drawing(s) (35 USC 113) [Total Sheets]</p> <p>5. <input checked="" type="checkbox"/> Oath or Declaration [Total Sheets 2] a. <input type="checkbox"/> Newly executed (original or copy) b. <input checked="" type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional with Box 18 completed) i. <input type="checkbox"/> DELETION OF INVENTOR(S) Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).</p> <p>6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76</p>	<p>7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)</p> <p>8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary) a. <input type="checkbox"/> Computer Readable Form (CRF) b. <input type="checkbox"/> Specification Sequence Listing on: i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper c. <input type="checkbox"/> Statement verifying identity of above copies</p>
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ACCOMPANYING APPLICATION PARTS

<p>9. <input type="checkbox"/> Assignment Papers (cover sheet & document(s))</p> <p>10. <input type="checkbox"/> 37 CFR 3.73(b) Statement (when there is an assignee) <input type="checkbox"/> Power of Attorney</p> <p>11. <input type="checkbox"/> English Translation Document (if applicable)</p> <p>12. <input checked="" type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations</p> <p>13. <input checked="" type="checkbox"/> Preliminary Amendment</p> <p>14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) (Should be specifically itemized)</p> <p>15. <input type="checkbox"/> Certified Copy of Priority Document(s) (if foreign priority is claimed)</p> <p>16. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122 (b)(2)(i). Applicant must attach form PTO/SB/35 or it's equivalent</p> <p>17. <input type="checkbox"/> Other:</p>

18. If a CONTINUATING APPLICATION, check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

Continuation Divisional Continuation-in-part (CIP) | of prior application No.: 09/985,099 filed November 1, 2000.

Prior application information: Examiner: S. Tran Group Art Unit: 1615

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

Customer Number 20582 or Correspondence address below
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NAME			
ADDRESS			
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COUNTRY	TELEPHONE		FAX

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Prior application:
09/985,099

Examiner S. Tran

Art Unit 1615

Commissioner for Patents
P.O. Box 1450
Mail Stop PATENT APPLICATION
Alexandria, VA 22313-1450

Sir:

This is a request for filing a continuation divisional application under 37 CFR § 1.53(b), of pending prior application no. 09/985,099 filed on November 1, 2000.

of Paul D. RUBIN and Timothy J. BARBERICH

(inventor(s) currently of record in prior application)

for COMPOSITIONS FOR TREATING APNEA AND APNEA DISORDERS CONTAINING OPTICALLY PURE R(+) ONDANSETRON (as amended)

(title of invention)

1. The filing fee is calculated below:

PATENT APPLICATION FEE VALUE

TYPE	NO. FILED	LESS	EXTRA	EXTRA RATE	Fee
Total Claims	14	- 20	0	\$18.00 each	\$ 0.00
Independent	1	- 3	0	\$84.00 each	\$ 0.00
				Minimum Fee	\$ 750.00
				Multiple Dependency Fee	\$ 0.00
				If Applicable (\$280.00)	\$ 750.00
				Total	\$ 750.00
				Applicant qualifies for the 50% Reduction for Independent Inventor, Nonprofit Organization or Small Business Concern	\$ 0.00
				Total Filing Fee	\$ 750.00

- 2. Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.
- 3. Amend the specification by inserting before the first line the following sentence: This is a continuation, of application no., filed.
- 4a. New formal drawings are enclosed.
- 4b. Informal drawings are enclosed.
- 5a. Priority of provisional application no. 60/122,274 filed on March 1, 1999 is claimed under 35 U.S.C. §119.

5b. The certified copy has been filed in prior application no. , filed

6. The prior application is assigned of record to Sepracor Inc. by virtue of an assignment recorded on July 29, 1999 at reel 010132, frame 0184.

7a. A copy of the Declaration and Power of Attorney filed in the prior application no. 09/515,407, filed February 29, 2000 is enclosed.

7b. A Power of Attorney is enclosed.

8. This application contains nucleic acid and/or amino acid sequences required to be disclosed in a Sequence Listing under 37 CFR §§1.821-1.825. It is requested that the Sequence Listing in computer readable form from prior application no. , filed on be made a part of the present application as provided for by 37 C.F.R. §1.821(e). The sequences disclosed therein are the same as the sequences disclosed in this application. A copy of the paper Sequence Listing from application no. is enclosed.

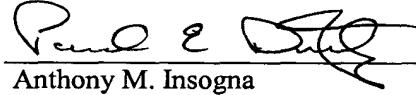
9. The undersigned states, under 37 C.F.R. §1.821(f), that the content of the enclosed paper Sequence Listing from application no. is the same as the content of the computer readable form submitted in application no. .

10. DO NOT PUBLISH. I hereby certify that the invention disclosed in the attached application has not and will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

11. Additional enclosures or instruction: Please enter the
Preliminary amendment and
Information Disclosure Statement filed concurrently herewith.

Respectfully submitted,

Date September 22, 2003


Anthony M. Insogna

(Reg. No. 35,203)

By: Paul E. Dietze
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